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No. 85

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord God, You are the Light of truth for those who know You, the Security of those who love You, the Strength of those who trust You, the Patience of those who wait on You, and the Courage of those who serve You. Fill this Senate Chamber with Your presence. May all that we say and do here today be said and done with an acute awareness of our accountability to You. Help us to ask, "What would the Lord do?" and then, "Lord, what do You want us to do?" Give us long fuses to our tempers and a long view of our vision for the future of America. We invite You to dwell not only in this place but in our minds so that we can think Your thoughts and discover Your solutions. In the Name of our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. This morning the Senate will resume consideration of the Department of Defense authorization bill. Under the previous order, Senator WELLSTONE will immediately be recognized to offer an amendment regarding Department of Defense schools under a 30-minute time agreement. I see he is here, ready to go.

At the expiration of that debate time, the Senate will proceed to vote on or in relation to the Wellstone amendment. Following that vote, there will be 10 minutes for closing remarks

with respect to the Inhofe amendment, regarding the base closure issue, with a vote occurring following that debate. There will then be 10 minutes for closing remarks with respect to the Harkin amendment that was debated last night, which deals with the VA health care issue, followed by a vote in relation to that amendment.

Therefore, three votes will occur beginning, I presume, shortly after 10 o'clock this morning. Following those votes, it is hoped that Members will come to the floor and offer and debate remaining amendments, with the understanding that the bill will be concluded during today's session. I believe that is possible. But once again, it takes cooperation and commitment to agree to reasonable time limits and get to a conclusion on this bill so we can move to a number of other very important issues that we are trying to get cleared, or appropriations bills.

We will make an effort to get short time agreements with regard to the clean needles bill, the reading excellence bill, the drug czar reauthorization bill, perhaps the higher education bill, and any other appropriations bills that we may take up, plus some Executive Calendar items we would like to be able to get done before we go home for the Fourth of July recess, but they are all related to each other. If we get cooperation on the one side, there will be cooperation on the other; if we don't get cooperation and clearance on the bills, the Executive Calendar will have to wait for another week, month, or year.

Also, the Senate can be expected to consider, prior to the Independence Day recess, as I mentioned, the higher education bill. I think we are very close to getting an agreement worked out on that. We can expect votes throughout the day, into the night, and on Friday. There will be at least two votes on Friday, and Senators need to be aware of that.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Inhofe amendment No. 2981, to modify the restrictions on the general authority of the Department of Defense regarding the closure and realignment of military installations, and to express the sense of the Congress on further rounds of such closures and realignments.

Harkin/Wellstone amendment No. 2982, to authorize a transfer of funds from the Department of Defense to the Department of Veterans Affairs for health care.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized for 30 minutes.

Mr. THURMOND. I congratulate Senator WELLSTONE for being willing to come down this early to offer an amendment.

Mr. WELLSTONE. I thank my colleague from South Carolina.

Mr. President, I wonder whether I could ask my colleagues for 5 minutes to speak as in morning business to quickly introduce a bill before going to my 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I thank the Chair.

(The remarks of Mr. WELLSTONE pertaining to the introduction of S. 2215 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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S7039

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent Deanna Caldwell, a fellow in our office, be allowed to be on the floor this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2902

(Purpose: To provide, with an offset, \$270,000,000 for the Child Development Program of the Department of Defense)

Mr. WELLSTONE. Mr. President, I call up my amendment numbered 2902, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself, and Mrs. BOXER, proposes an amendment numbered 2902.

Mr. WELLSTONE. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 200, between lines 14 and 15, insert the following:

SEC. 1005. CHILD DEVELOPMENT PROGRAM.

(a) **ADDITIONAL FUNDING.**—The amount authorized to be appropriated by this Act for the Child Development Program of the Department of Defense is hereby increased by \$270,000,000.

(b) **OFFSET.**—(1) Notwithstanding any other provision of this Act, the total amount authorized to be appropriated by this Act (other than the amount authorized to be appropriated for the Child Development Program) is reduced by \$270,000,000.

(2) The Secretary of Defense shall allocate the amount of the reduction made by paragraph (1) equitably across each budget activity, budget activity group, budget subactivity group, program, project, or activity for which funds are authorized to be appropriated by this Act.

(c) **USE OF FUNDS.**—(1) The amount made available by subsection (a) shall be available for obligation and expenditure as follows:

(A) \$41,000,000 shall be available in fiscal year 1999.

(B) \$46,000,000 shall be available in fiscal year 2000.

(C) \$53,000,000 shall be available in fiscal year 2001.

(D) \$61,000,000 shall be available in fiscal year 2002.

(E) \$70,000,000 shall be available in fiscal year 2003.

(2) Amounts available under this section shall be available for any programs under the Child Development Program, including programs for school-age care.

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

Mr. WELLSTONE. Mr. President, I introduce this amendment on behalf of myself and Senator BOXER. This amendment focuses on a real need in our Armed Forces. Really, we are talking about the children. We are talking about the need to have comprehensive child care for our families who serve in our Armed Forces who, after all, are involved in very important service for our Nation.

Back in the 1980s this body began looking at the state of child care. Thanks to the leadership of Senator KENNEDY, funding was appropriated to

build child-care centers that provided new services to families of military personnel. Subsequently, the Department of Defense's child-care programs have been able to provide quality—by the way, this is a model for the Nation—quality service to thousands of children of military personnel. But, by 1995, we find out that there is really a tremendous need, and while there are some 299,000 children served, there are 155,000 children of families that are requesting child-care services. This amendment is an effort to bridge this gap.

For the parents of these 144,000 children—really, close to 155,000 children—requesting this, this is a huge issue. It is difficult to do well when you are worried about whether or not your children have good care, and this amendment speaks to this problem. If you don't have peace of mind while you are serving our country, if you don't believe your child is receiving good care, what we are trying to do is provide the necessary family support services.

There are a variety of different components that we are talking about. We are talking about, of course, early childhood development. That is to say, when both parents are working and you are trying to figure out what you are going to do with your child—and, look, for our military personnel, but also for all of our families—when both of you have to work, you know full well that the most important thing is to make sure that your child is receiving good child care. But for too many citizens in our country, and for too many military families, they are not able to fill that need. This amendment takes us a long way toward filling that need.

In addition, there is the issue of afterschool care for younger children who are going home, but going home alone, again, when both parents have to work, trying to fill that very important need for military personnel; or there are occasions when there is a place to drop a child off from time to time when a parent or parents need to do so. Now, it is not free. What we have is a sliding fee scale basis of child care right now within the military, which is the way I think it should be done. Actually, the average fee is about \$65 per child per week. It ranges from \$35 to \$88.

The funding for the child development program of the Department of Defense is about \$295 million. About 52 percent of the children have been served. What we are now trying to do is move toward serving the children for the vast majority of these families by, over a year period, increasing the appropriations by \$270 million.

The offset is as follows: We simply say, take one-tenth of 1 percent, one-tenth of 1 penny of every dollar, which now goes to the Pentagon budget, and just do an across-the-board cut. We have had studies that talk about administrative expenses that go way beyond this in terms of administrative

waste. If you were just to make a cut in the waste and be more efficient, one-tenth of 1 percent—and I make this appeal to my colleagues—you could then appropriate this \$270 million over a 5-year period. We would start with \$41 million next fiscal year and, ultimately, we would build up, by the year 2003, to \$270 million.

What we are trying to do is to make sure that we meet a real need of our military personnel and their families. What we are trying to do is provide the service for as close to all of the children of military personnel as possible. What we are trying to do is build on the Department of Defense's child care program, which is a huge success. I have had an opportunity to talk with the people that run that program. I am very proud of what they do, but it seems to me that one of the best things we could do within the DOD budget is just simply say for a very small—one-tenth of 1 percent—cut across the board, you can take it out of waste easily and we could then have \$270 million over a 5-year period, which would help—again, let me be crystal clear about this—somewhere in the neighborhood of 150,000 children. Just think of how many military families we could help through this amendment. I hope that there will be support for this amendment.

I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment. I share the Senator's concerns regarding the need to provide adequate resources to such worthy projects. Therefore, the bill we have before us fully authorizes the President's budget request for the Department of Defense Child Development Program. The committee has also recommended an additional \$23.0 million in this bill to construct five new child care centers.

Unfortunately, the Defense budget has declined so dramatically over the past several years that we cannot afford to reduce other programs below their current levels without significantly jeopardizing near and long-term military readiness. Furthermore, I believe that this amendment has some technical problems.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I need 5 minutes.

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me say that, as usual, our friend from Minnesota is fighting for a cause that is an important one. I think he is one of the leaders in this body of trying to make sure we have enough money for child care, child development, and it is important that leadership exist in this area. I commend him on that.

The defense budget this year shows a greater than 10-percent increase in this

area. So I think the Defense Department is right when they give us the facts and tell us that they have a program for significant improvement in child care, in part, by the way, because of the efforts of people in this body many years ago. They have a projected significant increase over these years, in part, may I say, because of our former colleague, Bill Cohen. Secretary Cohen was a leader in the effort to provide child care in this Senate. He is totally dedicated to it in the military.

The DOD effort, the planned effort to significantly increase the amount of child care, is requiring them to go off base frequently in order to do that, to get facilities off the site of the facility itself, and to go into the neighboring communities to get child care. But they are on that course of action. They are doing that, and they should. But they have put in this budget this year approximately a 10-percent increase in funding for child care. It is part of a significant increase that has been projected over a number of years for child care, and it is in the hands of the Secretary of Defense, who, when he was in the Senate, showed a tremendous commitment in this area and has continued that commitment as Secretary of Defense.

So the increases that are significant have been planned. They are proceeding in a planned way. The Defense Department feels that it is proceeding as quickly and as administratively feasible and efficiently, and I would, therefore, oppose the Senator's amendment.

I do so with some reluctance because of the subject matter. But despite that reluctance, I feel that the Defense Department is proceeding on pace, in a planned way, and most importantly, proceeding in a way that involves a significant increase in expansion in child care, despite the fact that the number of people in the armed services is being reduced, and it is all under the leadership of a Secretary of Defense who has shown a commitment to child care over the years.

So for those reasons I will oppose the Senator's amendment. But, again, I express my feeling that, as he so often does, he is addressing an issue that is an important issue for the Nation.

Mr. WELLSTONE. Mr. President, I appreciate both my colleagues' remarks.

I ask unanimous consent that excerpts from a CRS study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Excerpt from CRS Report for Congress, Sept. 14, 1995]

MILITARY CHILD CARE PROVISIONS:
BACKGROUND AND LEGISLATION

(By David F. Burrelli, Specialist in National Defense, Foreign Affairs and National Defense Division with Kristin Archick)

In the 1995 survey, potential need for all the services is estimated to be 299,278 child care spaces. Given that there are currently

155,311 spaces, DoD is meeting about 52 percent of the total potential need.

TABLE 6. NEED FOR CHILD CARE SPACES BY SERVICE, 1995

	Have	Need	Percent met
Army	69,366	109,814	63
Navy	28,074	80,488	35
Air Force	45,785	85,927	53
Marines	9,086	23,049	39
DoD	155,311	299,278	52

Source: DoD's Office of Family Policy, Support and Services.

Currently, there is a waiting list of approximately 93,400 children for military child care spaces.³⁹

Mr. WELLSTONE. Mr. President, the Department of Defense had its own internal study in 1995. I agree with my colleague from Michigan in his praise of our Secretary of Defense and his commitment.

I don't think the Secretary of Defense would disapprove of this body taking yet another step forward in this area.

We had an internal study in 1995 where the DOD essentially said, "Look, we can only satisfy 52 percent of the need for child care of families in the armed services." I am looking at almost 50 percent of the families not able to get the care for their children that they need. As far as how we do this, we are very clear that this gets phased in over a period of time.

As I said to my colleagues, we start next fiscal year with the \$41 million, and then we gradually increase it, so that by the year 2003 it is \$70 million. Overall it is \$270 million, one-tenth of 1 percent of the overall budget. There have been plenty of studies that say we spend way more than that in administrative ways.

I cannot believe that the Secretary of Defense, or certainly anybody who is involved with the Department of Defense child care program, would not say, "Senators, if you are willing to take one-tenth of 1 percent across the board, and you will earmark that for expanding child care services so that we can meet the needs of 155,000 children and their families, we are for it."

I again appeal to my colleagues to support this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time? If no one yields time, it will be divided equally.

Mr. WELLSTONE. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Six minutes 55 seconds.

Mr. WELLSTONE. If my colleagues have essentially yielded their time, or may now reserve some of their time, let me try to summarize it.

Let me try to make this appeal again. We have a 1995 study which says, "Look, almost 50 percent of the families are hurting here. They need the child care services." I have a Congressional Research Service study that says the same thing. We phase it in over a 5-year period. It is a total of \$270

million, one-tenth of 1 percent of the overall Pentagon budget.

Isn't part of our readiness making sure that these families of our military personnel can feel secure that their children are getting good child care? Can't we do this in our budget for our military families?

The medical evidence is overwhelming about the importance of early childhood development. It is overwhelming about the development of the brain. It is overwhelming that we ought to do better. This amendment enables us to do this. I guess I am disappointed in the opposition, although, of course, everybody has a right to take whatever view they want to.

I make yet one final appeal to my colleagues to please support this amendment. It is eminently reasonable, eminently balanced, and it really does a world of good for military families.

I reserve the remainder of my time.

Mr. THURMOND. Mr. President, I yield time to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, we spoke with the Deputy Assistant Secretary of Defense, Carolyn Becraft. She is in charge of their family program. They oppose this amendment.

When the Senator says he can't believe that the Defense Department would not support this, or the people in charge of families and child care would not support this amendment, we asked them what their position was. Their position is that the child care program is funded in a way to expand the availability of child care in a planned way.

I want to emphasize that. We have a significant expansion in child care in the Defense Department underway. It is because of the initiative of many people within the Defense Department and outside, including Members of this body. It is under the supervision of a Secretary of Defense who is totally committed to child care. He showed that when he was in this body, and he has continued to show that as Secretary of Defense. The Defense Department has this significant expansion, which is ongoing in a planned way, and that is why they do not support this additional increase.

That comes from the Assistant Secretary of Defense who is responsible for dealing with the needs of families in the Defense Department.

Mr. WELLSTONE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes 2 seconds.

Mr. WELLSTONE. Mr. President, let me be clear to my colleagues. I believe in the basic discussion I have had that a lot of the men and women in personnel who are involved, I say to my colleagues, who are actually involved down in the trenches delivering child care programs within the Department of Defense child care program, will tell you, "Senator, \$270 million over 5 years

³⁹Maze, Rick, Child Care Centers Get a Huge House Boost, *Army Times*, July 3, 1995: 9.

would do us a world of good, because we have almost 50 percent of the families we can't serve."

My colleague can get a statement from the director saying, "Look, we are not in favor of this." I mean that can be the position that the Department takes. That is the position that maybe someone who administers the program takes. But with all due respect, I have here a Congressional Research Service report. I will quote. This backs up the internal 1995 DOD report.

In the 1995 survey, potential need for all the services is estimated to be 299,278 child care spaces. Given that there are currently 155,311 spaces, DOD is meeting about 52 percent of the total potential need.

My colleagues come here to the floor and they say there is already a plan to meet this need. But there isn't a plan to meet this need. We are talking about a gap of 48 percent.

I will say it one more time. Just ask the families. Just talk to the families. Ask that 48 percent what it feels like to not have adequate child care, what it feels like when you both have to work and you don't know whether your child is in really good child care, what it feels like when you are both working and your child comes home alone from school.

We could do a world of good. The evidence is clear. There is a huge gaping need here.

With all due respect, whatever official positions we get from DOD on this, the fact of the matter is, I think, the evidence is irrefutable. We have a 48 percent gap, and for 1 penny of 1 dollar, one-tenth of 1 percent across the board, look at the studies on administrative waste. We could put \$270 million into child care for our military families and meet a huge need. That is the issue.

I hope there will be strong support for this amendment.

I reserve the remainder of my time.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, just 1 additional minute.

The source of these additional funds is across-the-board reduction in every budget activity in the Defense Department. It is not aimed at some category called "waste." I think if there were such a category, everybody in this body would identify it. And I have spent a good part of my life seeking to identify it, have identified a lot of it, and we have been able to get rid of a lot of it.

This amendment would take money from every budget activity, in a very small amount, which the Senator has identified. But those budget activities for weapons systems are just as important as they are. Research and development is part of that. Those budget activities include DOD schools, family support centers, commissaries. Families need those things too.

So when the Senator makes an unallocated cut across each budget ac-

tivity, many of those budget activities are as critical to those very same families as we are trying to help with our child care program.

Mr. President, again, I oppose this amendment. I hope it is defeated. But I want to end on a positive note and again say how much we appreciate the strength with which the Senator from Minnesota supports the kind of causes which are so important to the people of this Nation and to the people in the military.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Cardell Johnson, an intern in my office, be allowed floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, let me just say to my colleagues, this is one-tenth of 1 percent, and we have studies on administrative waste within the Department of Defense. That is my point. It is hard to believe that we could not take one penny out of \$1 of the overall budget and put it into child care to make sure that these families are able to receive the support that they deserve. With almost a 50-percent gap, according to CRS, a waiting list of 93,000 families for child care, this is a great opportunity to help a lot of military families in probably the most important way we can. All of us who have been parents and grandparents know that. So I hope my colleagues will support this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the request for the yeas and nays?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the Wellstone amendment No. 2902. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Delaware (Mr. ROTH), are necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent because of a death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 18, nays 74, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—18

Boxer	Jeffords	Mikulski
Bumpers	Johnson	Moseley-Braun
Durbin	Kennedy	Murray
Feingold	Kerry	Torricelli
Ford	Kohl	Wellstone
Harkin	Lautenberg	Wyden

NAYS—74

Abraham	Domenici	Lott
Allard	Dorgan	Lugar
Ashcroft	Enzi	Mack
Bennett	Faircloth	McCain
Biden	Feinstein	McConnell
Bingaman	Frist	Moynihan
Bond	Gorton	Murkowski
Breaux	Graham	Nickles
Brownback	Gramm	Reed
Bryan	Grams	Reid
Burns	Grassley	Robb
Byrd	Gregg	Roberts
Campbell	Hagel	Santorum
Chafee	Hatch	Sarbanes
Cleland	Hollings	Sessions
Coats	Hutchison	Shelby
Cochran	Inhofe	Smith (NH)
Collins	Inouye	Smith (OR)
Conrad	Kempthorne	Snowe
Coverdell	Kerrey	Stevens
Craig	Kyl	Thomas
D'Amato	Landrieu	Thompson
Daschle	Leahy	Thurmond
DeWine	Levin	Warner
Dodd	Lieberman	

NOT VOTING—8

Akaka	Helms	Roth
Baucus	Hutchinson	Specter
Glenn	Rockefeller	

The amendment (No. 2902) was rejected.

Mr. COATS. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Alan Easterling, a legislative fellow in my office, be allowed privileges of the floor during this action.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2981

The PRESIDING OFFICER. Under the previous order, the question reoccurs on the Inhofe amendment No. 2981, of which there will be 10 minutes of debate equally divided in the usual form.

Mr. COATS. Mr. President, could I ask, who will be controlling the time on the proponents' side of the amendment?

The PRESIDING OFFICER. The Senator from Oklahoma controls the time for the proponents.

The Senator from Indiana opposes the amendment and controls the time.

Mr. INHOFE. Mr. President, it is my understanding, for clarification, that we have 10 minutes equally divided, and I would like to be recognized to close debate on my amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. INHOFE. The Senator from Indiana is going to speak in opposition to my amendment; if you recognize the Senator from Indiana first, so I can close debate.

Mr. COATS. Mr. President, very briefly, in the time we have, I don't enjoy opposing matters offered by my friend from Oklahoma, but I have a fundamental disagreement with him on this particular issue.

We do four basic things in defense: We pay for people and their quality of life; we research, develop, and purchase modern weapons and give them the very best capabilities; we support the readiness of our forces; and we pay for infrastructure—the bases and all the infrastructure for support.

We know four things: We know that our military people are underpaid and that their quality of life is suffering; we know they live in inadequate housing; we know we have a \$10 to \$15-billion-a-year shortfall in research, development, and modernization; we know that we have strains in growing, cracks and fissures in our readiness; and we know that we have too much infrastructure. The Department of Defense says we cut personnel and everything else by 40 percent, infrastructure by 20 percent.

What this amendment does is send a message. It sends a message that we will subordinate the interests of caring for our people, of supporting new modernization of weapons, of making sure of our readiness, in order that we keep the infrastructure that we have, in order that we protect civilian jobs and bases that the Department of Defense does not want and does not need.

It is exactly the wrong message to send to our service people, to send to our national defense. It jeopardizes our national security. We want to take reasonable steps to put in place a process to remove excess infrastructure so we can address these three other critical needs.

I yield to my friend from Arizona.

Mr. BYRD. Before the Senator speaks, would the Senator yield briefly?

Mr. COATS. I am happy to yield to the Senator.

Mr. BYRD. Mr. President, the Supreme Court of the United States has just struck down the line-item veto by a vote of 6-3. I ask unanimous consent that I and Senator MOYNIHAN and Senator LEVIN may have some time—say, not to exceed 30 minutes—following the three votes that are scheduled.

Mr. MCCAIN. I object, unless Senator COATS and I are given equal time.

Mr. BYRD. Mr. President, I would love to give both of those Senators double the time. I make the consent that they have equal time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I ask unanimous consent the time just yielded to the Senator from West Virginia

not be deducted from the time of the Senator from Arizona. I yielded because I was under the false impression that the Senator was going to speak in favor of our position on this amendment.

I am reluctant to fail to yield to the Senator from West Virginia, but had I known he was asking for time for this purpose, I would have been sorely tempted not to yield. I probably would have, but I would have been sorely tempted not to.

I appreciate the Senator's interest in that subject, however. I know we have and will continue to have debates on that.

Mr. BYRD. I thank the distinguished Senator.

I have a few words to say today about yesterday's colloquy between the Senator and myself in which I clearly misunderstood the Senator. I think we passed each other, but most of the fact that we passed each other was my fault, and I want to state that more clearly later today.

Mr. COATS. I thank the Senator for saying that.

Mr. President, if I could ask, how much time remains on our side?

The PRESIDING OFFICER. There are 3 minutes.

Mr. COATS. I yield 2 minutes to the Senator from Arizona.

Mr. MCCAIN. Mr. President, let me just make a couple comments on this amendment.

One, there seems to be some debate as to whether base closing actually saves money or not—one of the more bizarre and interesting and illogical arguments I have heard in my time in the Senate. If closing bases didn't save money, after World War II we should have kept the thousands of bases that we had across America open. Look, closing bases saves money; it just depends on when. The sooner we get about that business, the sooner we will be able to have the money that would take care of force modernization, retention of qualified men and women, and so many other urgent requirements for national defense.

Let me quickly add one of the practical effects of this amendment. It would prohibit any installation from being closed for 4 years following a realignment, where, as a result of the realignment, civilian employment dropped below 225—not military presence, civilian employment. My friends, there is nothing more revealing about the amendment than that the focus is on civilian employment. That could mean no installation could be closed—it could remain open, could be forced to remain open, with no military presence at all, no military people, but just 225 civilians, and the base being left open. It is incredible.

Let me finally say, the Secretary of Defense has recommended a Presidential veto of this bill if this amendment goes through, and I strongly support that. This is a very dangerous thing for national security.

I thank the Senator from Indiana.

Mr. COATS. I yield 30 seconds to the Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

Mr. President, very briefly, every single Member of this Chamber understands that eventually we will have to have the intestinal fortitude to reduce infrastructure if we are going to support force structure. This amendment moves us in precisely the opposite direction. If we don't have the fortitude to make those choices, let's at least let our commanders have the flexibility so they can make the choices for us in the interim.

Mr. President, virtually every Member of this body knows that another one or two rounds of base closures will not only save money, but will save billions. But many in the Congress have concluded unequivocally that preserving jobs and infrastructure in their states and districts is more important than military readiness and modernization. Some are in fact determined to punish the Administration for its actions related to privatization-in-place at Kelly and McClellan Air Force Bases. But who is being punished? We punish the nation's taxpayers when we fail to make the best use of the resources with which they entrust us. We punish today's soldiers, sailors, airmen and marines whose readiness depends on adequate funding for equipment, training and operations. We punish tomorrow's force as we continue to mortgage research, development, and modernization of equipment necessary to keep America strong into the 21st century.

The amendment before us takes our parochialism and so-called punishment of the Administration even further. The amendment seeks to make it even more difficult for DoD to shift personnel among bases, to allocate resources as efficiently as possible, to align our infrastructure in the best manner for supporting the warfighter. Rather, this amendment represents a flagrant attempt to frustrate the legitimate efforts of our service leaders to reduce and realign their personnel and facilities to meet changing security requirements and save money.

The standards for allowable realignment and adjustment of people and facilities are already significantly limiting for the services. Greater limits on service authority to adjust its infrastructure, reassign individuals and units, move forces and capabilities to where they are needed when they are needed—does nothing but harm national security. I urge my colleagues to reverse this insidious trend of raw parochialism, of protecting jobs and land and buildings at the expense of our nation's security.

With that, I thank the Chair and yield the floor.

Mr. DASCHLE. Mr. President, I come to the floor today as a cosponsor of the amendment before us. This amendment would further reduce the Secretary of Defense's ability to close and realign

bases without the consent of Congress. The amendment also expresses the sense of the Senate that Congress should not authorize additional rounds of base closure until we have ceased operations at bases already marked for closure.

I have listened carefully to the arguments of those opposed to this amendment. In the immortal words of that great pop philosopher Yogi Berra, it feels like *deja vu* all over again. If memory serves me correctly, on this very bill last year, many of these same Senators used many of the same arguments we are hearing today. After listening to last year's debate, the Senate overwhelmingly rejected their arguments. Little has changed in the intervening period. I believe the Senate should follow the same course this year.

Since 1988, Congress has authorized four rounds of base closure. As a result of these authorizations, operations will be ended at 97 major military installations in this country—nearly 20 percent of all U.S. bases. In addition, activities will be curtailed at hundreds of other military bases around the country. These closures and consolidations will take until 2001 to complete. As they did last year, opponents of this amendment argue that we have not done enough. They argue that we need to close more bases. They assert that previous rounds of base closure have produced billions in savings and that future rounds will do the same. And they again rely upon incomplete and questionable data from the Pentagon to back them up.

Last year, I joined with Senator LOTT, the distinguished Majority Leader, and Senator DORGAN in pointing to base closure studies by the General Accounting Office and the Congressional Budget Office that raised significant doubts about the Pentagon's data. After listening to our arguments, the Senate, by a vote of 66 to 33, adopted language offered by the Republican leader and myself requiring the Defense Department to submit a comprehensive report on base closure and to have GAO and CBO review this report.

The Pentagon recently issued its four-volume report on base realignment and closure. Unfortunately, this report appears to be as short on new information as it is long in word count. Despite the fact that the report runs nearly 2000 pages, it fails to provide some of the basic information required under the legislation adopted by Congress last year. Moreover, since the Department chose to release its report just a short time ago, GAO and CBO have been unable to complete their review prior to the Senate's consideration of this amendment.

Nonetheless, these organizations have already provided us with a considerable amount of information about the Pentagon's data on excess capacity and base closure savings. First, let me briefly address the Defense Depart-

ment's assertion that significant excess capacity remains. As the Cold War was winding down in the late-1980s, the Defense Department properly decided to reexamine our military strategy and force requirements. The Pentagon conducted a rigorous analysis called the Bottom-Up Review. This review spelled out the numbers and types of military forces this Nation would need to meet the security challenges of the 1990s and beyond. In order to minimize disruptions, this review set precise future targets on such force components as military personnel for each service, combat ships, and fighting aircraft.

Unfortunately, the Defense Department has never seen fit to produce a similar master plan on military bases. Despite the fact that the Pentagon has stated since the late 1980s the approximate number and types of forces it will need well into the next decade, it has never chosen to specify the number and types of bases necessary to house this force. Instead, DoD continues to make the case for base closures using questionable calculations of excess capacity. We made this point last year, and it remains valid today. According to a May 1, 1998 letter from GAO, "precise measures of excess capacity are often lacking, and we have noted that DoD needs a strategic plan to guide the downsizing of its infrastructure."

As for savings from base closures, both GAO and CBO have issued reports that call into question the reliability of the Pentagon data offered up by the proponents of this amendment. According to GAO's most definitive base closure report, "the exact amount of actual savings realized from [base closings] is uncertain." GAO goes on to say that the Defense Department's cost and savings estimates were, "not of budget quality and rigor." CBO stated, "[it] is unable to confirm or assess DoD's estimates of cost and savings because the Department is unable to report actual spending and savings for [base closure] actions." In other words, both GAO and CBO have raised significant questions about the accuracy of the Pentagon's accounting system for base closures.

Mr. President, this is an extremely important issue. The outcome of this debate will have important consequences for both our national security and the scores of communities across this country that host military facilities. I remain concerned about the impact that additional base closures could have on our national defense. Once the Pentagon closes a major military installation, that facility is gone forever. The Defense Department cannot simply reopen the doors to a military base it has closed should a new military threat arise.

This debate will also have a major impact on our communities. Ellsworth Air Force Base in my home state is an excellent example. This facility and the people who run it have served this Nation well for 50 years. Given the far-reaching ramifications of closing addi-

tional bases, it is critical that Congress make informed decisions when deciding on the future of key facilities like Ellsworth and many others across this country. Despite the best efforts of myself and the Majority Leader in last year's Defense Authorization bill to gain the necessary knowledge, numerous important questions remain unanswered.

In addition to firming up the cost data, the Pentagon must provide the Congress with rigorous analysis that spells out the number and types of bases it will need for the base force. Once the Pentagon has done its homework, it will be appropriate for Congress to consider taking action. I look forward to working constructively with the Department of Defense in the months and years ahead on the relationship between our national security and our base structure. Once the Pentagon has its own house in order, I am prepared to revisit this issue. Unfortunately, that time has not yet come. Therefore, I ask my colleagues to support this amendment.

Mr. COATS. I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I ask what the remainder of my time is.

The PRESIDING OFFICER. Forty-two seconds left for the opponents and 5 minutes for the proponent.

Mr. INHOFE. First of all, there is not a person in this Chamber who has a stronger record for supporting defense than I do—not one Senator on the Democrat side or the Republican side has a stronger record in support of defense.

No. 2, those individuals who are speaking against it, I wish we had a chance last night, we had a little bit longer for debate. This has nothing to do with base closures, because I approve of the BRAC process. Last night, I went into detail as to why I think that is the right process to use.

No. 3, the Senator from Arizona talked about "measuring" with civilian employees. That is current law. We are not changing that. That is already in the law. That law, by the way, was put on the books by the current Secretary of Defense when he was then in the U.S. Senate.

So, I only say that we have covered all these bases. It is something that is significant. Yes, we do have excess infrastructure, but when we heard Secretary Peters and General Ryan say they didn't care what Congress said, they are going to go ahead and close the bases without going to Congress, I decided we had to do something to stop that. That is all this does—it makes them come to us instead of doing it without our consent or knowledge or without the BRAC process.

I yield the remaining time to the Senator from North Dakota.

Mr. DORGAN. Mr. President, the Senator from Oklahoma closed?

The PRESIDING OFFICER. That is not correct. The Senator from Indiana

still has 42 seconds, and the Senator from Oklahoma has 3 minutes.

Mr. INHOFE. It is my understanding that I made the request that I be recognized to close debate on my amendment.

The PRESIDING OFFICER. That was not the understanding of the Chair.

Mr. MCCAIN. I ask unanimous consent that the Senator from Oklahoma be allowed to close debate—for how many minutes?

Mr. INHOFE. One minute.

Mr. MCCAIN. I ask that he be yielded 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Was that request for additional time for the Senator, or within the 5 minutes?

The PRESIDING OFFICER. My understanding was within the 5 minutes.

Mr. COATS. We have no problem with the Senator closing debate. I don't think 42 seconds is going to swing things one way or another, unless I come up with something really clever.

Mr. INHOFE. Mr. President, I yield to the Senator from North Dakota, and if there is a minute remaining, I will take the minute after the other side has concluded their remarks.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I shall not use all the time allotted to me. I just want to make a couple points.

There isn't any question, I say to my friend from Arizona, Senator MCCAIN, that the base-closing rounds have saved money. I don't think there is a quarrel in this Chamber about that. Base closings save money. They do cost some money in the short term—there is no question—but they save money.

I have voted for four rounds of base closures, and it is likely that I will vote for additional base closures, because we need some restructuring. But the real question is this: Will we have the information we need to make the right decision as we cast that vote?

As my colleagues will recall, both the Congressional Budget Office and the General Accounting Office are skeptical about the Defense Department's savings estimates. Let me share what the Congressional Budget Office said about this a while ago:

The Congress could consider authorizing an additional round of base closures if the Department of Defense believes that there is a surplus of military capacity after all rounds of BRAC have been carried out.

Then the Congressional Budget Office says:

That consideration, however, should follow an interval during which DOD and independent analysts examine the actual impact of the measures that have been taken thus far.

About a couple dozen of the bases that have been ordered to close are not yet closed. We ought to finish the job we have done in the previous rounds before we begin a new one.

I have another question about this issue, and I think all of us should bear

this question in mind. What does the Defense Department mean by requesting two additional base-closing rounds at the same time that folks at DOD are talking about building and developing new superbases? Where? How big? At what cost? Let's answer some of those questions before we proceed.

Finally, let me respond to the remarks of the Senator from Arizona about civilian employees. The civilian employee standard has been in law for some 20 years. This amendment modifies it or adjusts it some. But as a standard for the Department's authority in this area, the number of civilian employees is not new.

So I am happy to join the Senator from Oklahoma in authoring this amendment.

Again, I think some base closings will save money. I think we will do that at some point, but this is not the time. We have nearly 30 that were ordered closed that are not yet closed. Let's finish that job.

Mr. COATS. Mr. President, I yield 10 seconds to Senator WARNER.

Mr. WARNER. Mr. President, we spoke on this late last night, around 9:30, 10 o'clock. The Senator from Virginia expressed his opposition to the amendment. I referred to the letter from the Secretary of Defense. I will read one sentence:

This proposal would seriously undermine my capacity to manage the Department of Defense.

Bill Cohen is a man we all know, a man we unanimously supported. I think it is a testament to him that we defeat this amendment.

I ask unanimous consent that this letter from Secretary Bill Cohen be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEAR MR. CHAIRMAN: I am writing to express the Department of Defense's strong opposition to an amendment to the fiscal year 1999 Defense Authorization Bill that has been proposed by Senators Inhofe and Dorgan. If enacted, this amendment would further restrict the Department's already limited ability to adjust the size and composition of its base structure. The Department will have views on other provisions in the Authorization Bill as well, but I want to draw your attention to this particular amendment before the Senate completes consideration of your bill.

The Department can undertake closure and realignments only after first complying with the requirements of 10 USC 2687. As a practical matter, section 2687 greatly restricts the Department from taking any action to reduce base capacity at installations with more than 300 civilians authorized. The amendment being proposed would extend the application of section 2687 to an even greater number of installations.

This proposal would seriously undermine my capacity to manage the Department of Defense. Even after eight years of serious attention to the problem, we still have more infrastructure than we need to support our forces. Operating and maintaining a base structure that is larger than necessary has broad, adverse consequences for our military forces. It diverts resources that are critical

to maintaining readiness and funding a robust modernization program. It spreads a limited amount of operation and maintenance funding too thinly across DoD's facilities, degrading the quality of life and operational support on which readiness depends. It prevents us from adapting our infrastructure to keep pace with the operational and technical innovations that are at the cornerstone of our strategy for the 21st century. In short, this amendment would be a step backward that would harm our long-term security by protecting unnecessary infrastructure.

I urge you to oppose the Inhofe/Dorgan amendment during floor consideration of the Authorization Bill. Its passage would put the entire bill at risk. Congress has given me the responsibility to organize and manage the Department's operations efficiently. I need to preserve my existing authority to fulfill that responsibility.

Mr. COATS. Mr. President, I yield our remaining time to the Senator from Michigan.

Mr. LEVIN. How much time is left?

The PRESIDING OFFICER. Twelve seconds.

Mr. LEVIN. Mr. President, this amendment, if adopted, will dig us into a deeper hole. We are not authorizing a new BRAC round in this bill. That is not before us. This amendment will make it more difficult for the Secretary of Defense to realign bases that he currently can without a BRAC round.

Mr. INHOFE. Mr. President, how much time do I have?

The PRESIDING OFFICER. One and a half minutes.

Mr. INHOFE. Mr. President, I agree with the very letter of what the Senator from Michigan said. He is right. It does make it more difficult for the Secretary of Defense to close the realigned bases without coming to Congress or without going through the BRAC process.

I have to say, respectfully, to my colleague from Virginia that the letter he read from was referring to a previous version—a much stronger bill. We have moderated this language quite a bit. I also say that is the same individual that put this into law 20 years ago himself.

Third, this doesn't stop the 2001 BRAC process. It does not stop. We can still do it. It just says we don't need to decide in this bill whether or not we are going to have a 2001, and it could just as well be done next year.

Lastly, the comment that was made that this would draw a veto, this is used every year. I have very serious doubts that the President of the United States, on the defense authorization bill, is going to veto it on the basis of an amendment that is supported by both the majority leader, TRENT LOTT, and the minority leader, TOM DASCHLE.

I yield the remainder of my time.

The PRESIDING OFFICER. All time has expired. Is there a request for a rollcall vote?

Mr. COATS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas (Mr. HUTCHINSON) and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent because of death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yes 48, nays 45, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—48

Abraham	Dodd	Lautenberg
Allard	Domenici	Lott
Bennett	Dorgan	Mack
Bond	Durbin	McConnell
Boxer	Faircloth	Mikulski
Breaux	Ford	Moseley-Braun
Brownback	Frist	Murray
Burns	Gorton	Nickles
Campbell	Graham	Roberts
Cleland	Hagel	Sarbanes
Collins	Hatch	Sessions
Conrad	Helms	Shelby
Coverdell	Hutchison	Smith (NH)
Craig	Inhofe	Snowe
D'Amato	Kempthorne	Thomas
Daschle	Landrieu	Torricelli

NAYS—45

Ashcroft	Grassley	Lugar
Biden	Gregg	McCain
Bingaman	Harkin	Moynihan
Bryan	Hollings	Murkowski
Bumpers	Inouye	Reed
Byrd	Jeffords	Reid
Chafee	Johnson	Robb
Coats	Kennedy	Santorum
Cochran	Kerrey	Smith (OR)
DeWine	Kerry	Stevens
Enzi	Kohl	Thompson
Feingold	Kyl	Thurmond
Feinstein	Leahy	Warner
Gramm	Levin	Wellstone
Grams	Lieberman	Wyden

NOT VOTING—7

Akaka	Hutchinson	Specter
Baucus	Rockefeller	
Glenn	Roth	

The amendment (No. 2981) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2982

The PRESIDING OFFICER. The Senate will now resume the Harkin amendment, No. 2982, with 10 minutes of debate.

First, we will have the Senate come to order. We will not proceed with debate and the vote until we can get Senators to take their conversations to the Cloakroom.

Who yields time?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, what is the parliamentary procedure?

The PRESIDING OFFICER. The Senator is recognized for 5 minutes, and the Senator from South Carolina is recognized for 5 minutes.

Mr. HARKIN. Mr. President, the amendment I offered last night—Mr. President, there still is not order in the Senate.

The PRESIDING OFFICER. There continues to be a fairly high level of discussion. Will Senators to the left of the rostrum please take their conversations to the Cloakroom.

The Senator from Iowa.

Mr. HARKIN. I thank the President for getting order in the Chamber.

This amendment I offered basically transfers \$329 million from the Department of Defense to the Veterans Affairs' medical account. The veterans' needs are very clear. We have a declining population, they say, of veterans, so why do they need that much money? That may be true for World War II vets. But now we have the Vietnam vets coming on board. Plus, our vets are living longer and are sicker than the general population. Plus, we have the problems with medical inflation.

Yesterday, during the debate, mention was made that the veterans account got more than a 12-percent increase from last year. I checked that out. That was based on a Washington Post article regarding the VA-HUD appropriations. But when I looked at the total budget account for Veterans Affairs, from 1997 to 1998, there was less than a 1-percent increase in Veterans Affairs. That is for the total veterans budget. There was even less than that in the medical account budget for our veterans.

What my amendment seeks to do is to put some money into the veterans' benefits in the medical account. This chart shows that out of our discretionary dollar, we spend about 50½ cents of each dollar for military, but for veterans' benefits, about 3½ cents.

My amendment will take the alarmingly large amount of one-eighth of 1 penny—one-eighth of 1 penny—of the entire Defense Department budget to put where it is needed to help care for our sick and elderly veterans. That \$329 million will simply keep the current level of services. It will not expand it.

Lastly, this amendment will authorize the Secretary to transfer the money. It doesn't mandate. Two years ago, the comptroller general of the Department of Defense said they could not account for over \$13 billion in DOD spending. They couldn't even find it. Then we had recent testimony this year from the IG's office regarding accounting principles. This will authorize the Secretary to transfer the money. Where will the Secretary get the money? You never know. Maybe they will get better accounting principles,

maybe they will find some of these billions of dollars for which they haven't been able to account.

Right now the Secretary cannot take that money and put it into veterans. This amendment will allow him to do so. It doesn't mandate it, but it allows it.

Lastly, I note with some interest an article that appeared in this morning's Washington Post. It points out that the House yesterday voted to buy \$431 million worth of airplanes that the Pentagon didn't even request. They didn't even request the C-130s. What the Pentagon did want is a squadron of F-18s, our carrier-based aircraft, because the F-14s are getting old. Over 32 have crashed since 1991. Yet, we are going to buy \$431 million worth of C-130s.

If anyone is saying that DOD doesn't have the \$329 million to take care of our veterans, I say nonsense. Of course, we do. I will make the point once again that taking care of veterans' medical needs is part and parcel of our ongoing military budget, and it ought to be viewed in that manner.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no one yields time, the Chair will run the clock.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I oppose this amendment offered by Senator HARKIN, and I will make my statement short. We have had the debate on defense spending, and I do not need to repeat those arguments. The level of defense spending was set with the Administration in the budget agreement. This agreement was widely supported by this body and should not be disregarded. Some of my colleagues have argued that the money for defense is unnecessary and they have always found other uses for this money. Thankfully, Mr. President, this body has not agreed with these arguments and has provided the resources necessary to meet our national security needs.

Mr. President, the budget agreement does not fully fund defense. The budget agreement represents what funds are available. The fact is, Mr. President, our Armed Forces have been reduced. Since the end of the cold war, the active military end strength has been reduced from 2.2 million men and women to a little over 1.4 million. Annual defense spending continues to decline from the build up of \$400 billion to about the \$260 billion, in equivalent, inflation adjusted dollars.

Mr. President, I am not opposed to increasing the funding for veterans' health care, but not at the cost of our national security. We have been warned of funding problems in defense. We must not further reduce defense spending, but instead, reverse the downward trend we have experienced over the last decade in defense spending. I sincerely hope we will heed the

hard lessons we have already learned, and not have to learn the same painful lesson over and over?

Mr. President, I strongly urge all of my colleagues to oppose this amendment and not further aggravate a serious underfunding of our defense.

I thank the Chair, and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. How much time do I have left?

The PRESIDING OFFICER. The Senator has 48 seconds.

Mr. HARKIN. Mr. President, this amendment is supported by veterans' groups, including the Paralyzed Veterans of America, the Blind Veterans Association, and the Vietnam Veterans of America.

The veterans have fulfilled the duty they had to serve our country. Now it is up to us to fulfill our duties, our obligation, and our solemn promise: Provide for our veterans.

Regardless of how you cut this issue, the health care of our veterans is a matter of our national security. What does it say to young people today entering the service who may serve in the Persian Gulf, or who knows where, to defend our national interest if they see how we treat the veterans of our past wars?

This amendment will simply keep the current level of services in the medical account section of our veterans budget. We should do no less than that.

The PRESIDING OFFICER. Time has expired. The Senator from South Carolina has 2 minutes 40 seconds remaining.

Mr. THURMOND. I yield back my time.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. HARKIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2982. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRAIG. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to a death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 55, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—38

Biden	Durbin	Kohl
Bingaman	Faircloth	Landrieu
Boxer	Feingold	Lautenberg
Breaux	Feinstein	Leahy
Bryan	Ford	Mikulski
Bumpers	Grassley	Moseley-Braun
Byrd	Harkin	Moynihan
Campbell	Hollings	Murray
Conrad	Inouye	Reid
D'Amato	Jeffords	Sarbanes
Daschle	Johnson	Wellstone
Dodd	Kennedy	Wyden
Dorgan	Kerry	

NAYS—55

Abraham	Graham	Murkowski
Allard	Gramm	Nickles
Ashcroft	Grams	Reed
Bennett	Gregg	Robb
Bond	Hagel	Roberts
Brownback	Hatch	Santorum
Burns	Helms	Sessions
Chafee	Hutchison	Shelby
Cleland	Inhofe	Smith (NH)
Coats	Kempthorne	Smith (OR)
Cochran	Kerrey	Snowe
Collins	Kyl	Stevens
Coverdell	Levin	Thomas
Craig	Lieberman	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Torricelli
Enzi	Mack	Warner
Frist	McCain	
Gorton	McConnell	

NOT VOTING—7

Akaka	Hutchinson	Specter
Baucus	Rockefeller	
Glenn	Roth	

The amendment (No. 2982) was rejected.

Mr. ROBB. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Notwithstanding the pending business, I ask unanimous consent that I be permitted to enter into a colloquy with some members of the Armed Services Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE AEGIS/NMD STUDY

Mr. KYL. I would like to enter into a colloquy with the distinguished manager of the Defense Authorization bill and several other members of the Armed Services Committee who share my concerns about the Pentagon's failure to date to respond to a requirement established first by the Committee in its action on last year's DoD bill, and then by the conferees on that legislation.

The first of these requirements was for the Defense Department to provide a study of the contribution that the Navy's Upper Tier—or Theater Wide—anti-missile defense program, based on the AEGIS fleet air defense system, could make to protecting the United States against long-range ballistic missiles. The due date for this report was February 15, 1998.

The conferees added to this requirement by directing the Department to report by that same date on "the feasi-

bility of accelerating the currently planned Navy Upper Tier deployment date of fiscal year 2008" including an estimate of "the cost and technical feasibility to options for a more robust Navy Upper Tier flight test program, the earliest technically feasible deployment date and costs associated with such a deployment date."

Mr. President, many of us believe that the AEGIS Option may be the most expeditious, capable and cost-effective way to begin providing ballistic missile defense—not only for our forces and allies overseas but for the American people, as well. This is the case because the Nation has already spent nearly \$50 billion building and deploying virtually the entire infrastructure we need to field the first stage of a world-wide anti-missile system.

Mr. INHOFE. Would the Senator yield?

I want to commend the Senator from Arizona for his leadership in identifying and encouraging this important program.

I too have, as a member of the Armed Services Committee, looked at the issue of our vulnerability to missile attack and concluded—as has my friend from Arizona—that it is one of the most serious shortcomings we have in our entire military posture.

I too have concluded that there is nothing we could do that would be faster or more effective than the AEGIS Option in terms of defending our people against the sorts of threats we now read about practically every day—from the thirteen ICBMs China has pointed at our cities, to the possibility of an accidental Russian missile launch, to the Indian, Pakistani, Iranian and North Korean missile programs, to Saddam Hussein's VX never gas-laden missiles and so on.

Does the Senator know why the Pentagon has not provided the information we requested last year? Our bill specifically said February.

Mr. KYL. It is my understanding that this study has been complete for some time—well over a month. In fact, in early May, the President's key NSC staffer in the defense and arms control field, told a public meeting that it was "in the mail." The staffer seemed to be saying that his office as well as the Defense Department had finished reviewing it and would be providing it promptly. Lt. Gen. Lyles did brief me on the study, and he has kept a dialogue open with my staff, but our preference is to receive the report.

Mr. INHOFE. Has the Senator any indication about the cause of the further delay?

Mr. KYL. I am advised that the study has been objectively performed. As a result, it confirms what the Senator from Oklahoma and I and others have been saying for some time: The Navy's AEGIS system can contribute significantly to protecting the United States against missile attack—and do so relatively quickly and inexpensively.

Weeks and months have now gone by, the DoD authorization bill is nearly at

the end of the legislative process and the delay has kept Members in the dark about an important opportunity we have for adding promptly and cost-effectively to our Nation's defense.

Mr. SMITH of New Hampshire. As the Senator from Arizona knows, I took the lead as Chairman of the Armed Services Committee's Strategic Subcommittee in drafting these reporting requirements. I think that, if what the Senator has been told is accurate, the Administration's conduct would not only be unresponsive to the mandate of Congress, but irresponsible with respect to our national defense.

It would be completely unacceptable if Congress were to be denied information it has sought, not because the information is unavailable, but because its conclusions are inconvenient to an Administration that is determined to do everything it can to prevent the deployment of missile defenses.

As Chairman of the Strategic Forces Subcommittee it is my responsibility to ensure that missile defense programmatic decisions are based upon solid information and facts. The report we are currently discussing is key to my subcommittee's future decisions on program direction and funding for missile defense. This report is one part of the process of examining our NMD program objectively, comparing the merits of each and deciding where future resources should be applied.

Mr. WARNER. I want to identify myself with the statements of my distinguished friends and colleagues from Arizona, Oklahoma, and New Hampshire on this matter. I have been privileged to have a long association with the Navy, an association that continues to this day in my capacity as Chairman of the Armed Services Committee's Seapower Subcommittee.

Over many years, I have watched the AEGIS system develop and mature as a formidable fleet air defense capability. I am persuaded that even greater returns can be realized from the wise investment our Nation has made in this system by adapting it not only to provide defenses against relatively short-range ballistic missiles but against the long-range ones that threaten our own people, as well.

I believe we need to receive the contents of the requested study of the AEGIS Option forthwith. I will be happy to work with the Chairman of the Committee, with the Chairmen of our Strategic Subcommittee and our Readiness Subcommittee and with others like the Senator from Arizona to ensure that we find out at once where this document is and, to the maximum extent possible, that we share its conclusions with the American people.

Mr. THURMOND. Let me say, Mr. President, that I would find it unconscionable if the Department of Defense were to be deliberately withholding a study that we sought in connection with our legislative responsibilities. We need to get to the bottom of this matter and I intend to do so.

Mr. INHOFE. I would say to the Chairman that I hope he would agree to consider taking some stern measures in the conference committee if this study—which is now over four months overdue—continues to be kept from the Congress. One option that could be in order would be to “fence” the funds for the Office of the Secretary of Defense until such time as the AEGIS study is provided to us in both a classified and unclassified form.

Mr. SMITH of New Hampshire. I for one would be prepared to support such a measure, should that prove necessary.

Mr. THURMOND. I can assure my colleagues that we will get this study one way or the other and I appreciate their excellent work on this issue.

Mr. KYL. Mr. President, I thank the Senator from Oklahoma and the Senator from Virginia for their strong leadership on this matter.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I rise to alert my colleagues to a problem that I am trying to find a solution to. In the big scheme of things, I guess you might say this is not an overwhelming problem. But given that we are talking about the leadership of the Navy in the future, I think it is of enough significance that attention ought to be focused on it.

In addition, I believe it is indicative of a problem within our military that I am seeing over and over again throughout the various branches of the armed services. I wanted to bring it to the attention of my colleagues today.

We currently give Navy ROTC scholarships to the best and brightest students in America. Students from all over the country compete for these scholarships. I know many of my colleagues are probably not familiar with how the system works, but I want to try to explain it because you have to understand it to understand the problem that I am raising today.

How the process works is, individual students apply to the Navy for an ROTC scholarship. They are evaluated on a nationwide basis. The Navy picks people who have technical skills in an academic capacity, people who the Navy believes will make outstanding naval officers. I think it is fair to say that Navy ROTC scholarships are among the most competed for scholarships in America. They carry great prestige. They also carry a commitment to pay tuition fees and expenses at the college or university that scholarship recipients attend. So they are important monetarily. They are important because they represent a highly prized scholarship, and they are important because they end up funding the future leaders of America's Navy.

We are in the midst of a Pentagon effort to change policy with regard to Navy ROTC scholarships. The new policy is basically a movement toward

limiting the number of individuals who can get a Navy ROTC scholarship and still go to the college or university of their choice. There are 69 colleges and universities in 68 programs in America that participate in the Navy ROTC program.

How it works is, young men and women win the scholarship. They then must accept the scholarship. Then they submit the names of the five colleges or universities that they choose in order. And then the Navy, based on whether or not other students previously accepted it, decided to attend those universities, tells them where they can apply.

This has produced a new policy, which is that several of our programs find themselves with two or three times as many students who have won the NROTC scholarship who want to attend that university. But what is happening is, they are now being told under this policy in the Navy that they won the scholarship, they won it based on merit, they have chosen to attend a college or university that participates in the program, but because 25 other people chose that college or university before they did, that the Navy has made a value judgment that we don't need more than 25 people to attend VMI on an NROTC scholarship, or to attend Texas A&M under an NROTC scholarship.

This problem is further compounded by the fact that there is no logic to the distribution of these programs. For example, my guess is that in Texas we probably have 200 kids a year who win NROTC scholarships. We have four NROTC scholarship programs. And if these caps of 25 each are enforced, it would mean that half of the kids in our State who win NROTC scholarships would have to go to another State, to another school, in order to be able to receive the scholarship that they choose.

Compare this to very small States where they might actually have 2 or 3 recipients but at their college or university they have 25 slots where people can choose that school.

This produces a terrible inequity. It creates an especially difficult problem for schools that are high on the list of people who win these scholarships.

In fact, in an internal memo, the Navy has said that one of the reasons they want to set these caps is that they have estimated that if they allowed people who win the scholarships to choose the school they would attend, 250 people would attend MIT and 250 recipients would attend Texas A&M University.

My question is, What is the problem? My question is, Why has the Navy decided that they are going to try to limit the ability of people who win NROTC scholarships to choose the college or university they attend that participates in the program?

We, under this new rule, at Texas A&M will probably have three times as many kids from our State who want to

attend Texas A&M who have won an NROTC scholarship. And the Navy is going to tell them that, because 25 people chose Texas A&M before they did, they can't attend Texas A&M. Or, all over the country there are going to be tobacco kids who win an NROTC scholarship who want to go to MIT, or who want to go to Notre Dame, another very popular program in the NROTC program, and they are going to be told that they can't attend those schools because the Navy has decided to set a quota to require them to go to schools that they don't want to attend.

Why are the quotas being imposed? This is the most incredible part of this quota policy. It shows you what you get into when the Navy tires of recruiting warriors, when the Navy tires of recruiting people who crush tires, when the Navy tires of recruiting people who keep Ivan back from the gate, and when we are socially engineering in the military services of this country.

What is the logic of this? One supposed logic of it is racial diversity.

Here is the interesting paradox that I want my colleagues to understand. I just pick out Texas A&M because I am from Texas A&M. At Texas A&M, we train and commission with NROTC 60 percent more Hispanic graduates who go into the Navy than the NROTC program does on average. But yet we are being discriminated against in students who want to come to Texas A&M in the name of racial diversity? How does that make any sense?

The second reason for limiting the ability of students to choose to attend a school is because of tuition costs. Of those schools that are now above the cap: MIT, \$24,265 a year; University of Colorado, \$11,502 a year; University of Southern California, \$21,832 a year; University of Notre Dame, \$21,027 a year; Texas A&M University, \$2,594 a year.

So we have a policy in the Navy that discriminates against students who want to go to Texas A&M when we have 60 percent more Hispanics commissioned in the Navy out of Texas A&M than the average NROTC scholarship. And, yet, the argument for these quotas is racial diversity. The second argument is high tuition costs. Yet, of all schools in the country that are over this new quota in terms of students wanting to enroll at them, Texas A&M has a tuition which, on average, is one-tenth the level of other schools that are overenrolled.

So I alert my colleagues to the fact that we have a major problem with the NROTC program. Now, what I believe we need to do is the following. I believe that we need to change the policy. We say we have a nationwide competition, we pick the best and the brightest, and then we say to the best and the brightest that they have the right to choose.

I believe we ought to have a policy with regard to NROTC scholarships that if a young man or woman wins a NROTC scholarship based on national competition and they want to go to

VMI, they should have the right to go to VMI. And if they are admitted, they ought to be able to enroll at VMI. The fact that 25 other students have chosen VMI should make no difference. I do not think it is right to make students who win national scholarships go to colleges that are not their first, or even their second, choice.

Finally, another amazing thing in this Navy memo, they are talking about how they are concerned about people applying for scholarships. In the 1992-1993 academic year, we had 7,667 students in America, high school seniors, apply for NROTC scholarships. Today, we have only 5,037 applying. Why is that? Why have we had a dramatic drop in the number of young students—young men and young women—who have applied for NROTC scholarships?

The reason is the Navy is not letting them go to the school of their choice. When you win one of the most prestigious scholarships in the country and you don't even end up getting your second choice as a school to go to, obviously that dampens the willingness of people to apply. I do not think quotas ought to be used in choosing where children go to school in America. This is a national program. They use national tests. They have national standards. When someone wins an NROTC scholarship, the fact that we say to people in my State that half of the kids in Texas who win an NROTC scholarship have to go outside Texas in order to get the scholarship, and when three times as many want to go to Texas A&M than we allow to go to Texas A&M because we have a quota that says A&M can only allow 25 to enroll, even though 75 may choose Texas A&M as their first choice, that is fundamentally wrong.

The interesting paradox is that the argument for the quota—racial diversity and holding down costs—clearly does not apply to Texas A&M, because we commission 60 percent more Hispanics than the NROTC program in general does, and our tuition costs are one-tenth the level of other schools that are over the limit in terms of the ability of people to attend those schools.

Mr. COATS. Will the Senator yield?

Mr. GRAMM. I would be happy to yield.

Mr. COATS. I have discussed this with the Senator from Texas, and I think he has many valid points. I would like to offer my services as a member of the committee in working with him on this question. I think that this does need to be addressed. I think the Senator's points are legitimate. I am hopeful that we can sit down with the Department of the Navy and discuss how we can better address this. I understand their concerns, but I think the Senator's concerns need consideration. Surely, we can find a way—it is beneficial to the Navy, I believe, to find a way to address both the Senator's problems, along with theirs.

Mr. GRAMM. Mr. President, let me conclude by saying I had not mentioned to the Senator, and I want to make it clear that so far as I know he was unaware prior to making that statement that one of the universities in America that is over this quota is Purdue University. Right now, they are six slots over the quota, which means that if this quota ends up being rigidly enforced, there will be 24 young men and women who wanted to go to Purdue who will not be able to attend because the Navy says they want them to go somewhere else.

Mr. COATS. Mr. President, if the Senator will yield on that, the Senator had my attention on the issue before, but if he had any doubts about it, that has been resolved. He certainly has my attention now and we will work together to resolve, fix this problem.

Mr. GRAMM. Mr. President, I see Senator BYRD in the Chamber, and I want to stop. I do congratulate Senator BYRD on the Supreme Court ruling on the line-item veto. Senator BYRD had taken the position all along that the Court would strike down the line-item veto. I think what it says to those of us who are concerned about the line-item veto and concerned about spending is that we need to amend the Constitution, that we need a balanced budget amendment to the Constitution. I think it is our obligation now to go back and try to get that amendment to the Constitution passed.

But I congratulate Senator BYRD. He is the greatest scholar in the Senate. He is guardian of this institution, more than any other person who has served here during my adult lifetime. His position was vindicated in the Court today, and I want to get out of the way and let Senator BYRD talk about it.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senators from West Virginia, New York, and Michigan are recognized for 30 minutes.

Mr. WARNER. Mr. President, would Senators allow me to do a UC on behalf of the majority leader and Senator THURMOND?

But I first associate myself with the remarks about Senate BYRD being the greatest scholar. Clearly, I am not a runner-up, but the Senator from Texas is, and for him to make that humble statement has taken a lot of courage.

Mr. GRAMM. I thought it was pretty clear myself.

Mr. WARNER. I also wish to thank the Senator from Texas for sounding general quarters on this ROTC thing, Naval ROTC. We have to look into that.

Now, Mr. President, I understand—

Mr. LEVIN. Will the Senator withhold one second?

Mr. WARNER. Yes.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield without losing the right to the floor on my own part, Mr. MOYNIHAN's and Mr. LEVIN's, until the colloquy and the action that is about to be taken has been taken.

PRIVILEGE OF THE FLOOR

Meanwhile, I ask unanimous consent that during the remarks of Mr. MOYNIHAN, Mr. LEVIN, and my own remarks, former counsel for the U.S. Senate, Mr. Michael Davidson, be allowed the privilege of the floor of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, on behalf of the majority leader, I ask unanimous consent that immediately following the 1 hour special order, the following Senators be recognized in order to offer the following amendments:

Senator DODD, regarding Reserve retirement, 10 minutes for debate, equally divided, and no second-degree amendments in order; Senator MURRAY, relating to burial, for up to 10 minutes, equally divided, no second-degree amendments in order; Senators MURRAY and SNOWE, regarding Department of Defense overseas abortions, 1 hour, equally divided, with no second-degrees in order prior to the vote; Senator REID, relating to striking Senator KEMPTHORNE's language, 2 hours, equally divided, with no second-degrees in order; Senator HARKIN, regarding gulf war illness, 30 minutes, equally divided, with no second-degrees in order prior to the vote.

I finally ask unanimous consent that any votes ordered in relation to any of the above-mentioned amendments be delayed, to occur in a stacked sequence at a time determined by the majority leader after consultation with the Democrat leader.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I beg the Senator's pardon; I was distracted.

The PRESIDING OFFICER. The Senator from West Virginia reserves the right to object.

Mr. COATS. Mr. President, I think this has been cleared on both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The distinguished Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair. I thank all Senators.

SUPREME COURT'S LINE-ITEM VETO DECISION

Mr. BYRD. Mr. President, the U.S. Supreme Court earlier today announced in its ruling in the consolidated cases of *Clinton v. New York* and *Rubin v. Snake River Potato Growers* that it has found the Line-item Veto Act to be unconstitutional. It did this by a vote of 6 to 3. It is with great relief and thankfulness that I join with Senators MOYNIHAN and LEVIN—and I am sure that if our former colleague, Senator Hatfield, were here he would join with us—in celebrating the Supreme Court's wise decision. Mr. President, the Founding Fathers created for

us a vision, set down on parchment. Our Constitution embodies that vision, that dream of freedom, supported by the genius of practical structure which has come to be known as the checks and balances and separation of powers. If the fragile wings of the structure are ever impaired, then the dream can never again soar as high.

Today, the Supreme Court has spared the birthright of all Americans for yet a while longer by striking down a colossal error made by the Congress when it passed the Line-Item Veto Act. For me and for those who have joined me in this fight, a long, difficult journey is happily ended. The wisdom of the framers has once again prevailed and the slow undoing of the people's liberties has been halted.

Every year, we in this Nation spend billions upon billions of dollars, we expend precious manpower, we devise greater and more ingenious weapons, all for the sake of protecting ourselves, our way of life and our freedoms from foreign threats. And, yet, when it comes to the duty—and we all take that oath with our hand on the Holy Bible and our hand uplifted, we take that oath and say “so help me, God” that we will support and defend this Constitution. And so when it comes to the duty of protecting our Constitution, the living document which ensures the cherished liberties for which our forefathers gave their lives, we walked willingly into the friendly fire of the Line-Item Veto Act, enticed by political polls and grossly uninformed popular opinion.

Now that the Supreme Court has found the Line-Item Veto Act to be unconstitutional, it is my fervent hope that the Senate will come to a new understanding and appreciation of our Constitution and the power of the purse as envisioned by the framers. Let us treat the Constitution with the reverence it is due, with a better understanding of what exactly is at stake when we carelessly meddle with our system of checks and balances and the separation of powers. If we disregard the lessons learned from this colossal blunder, we might just as well strike a match and hold that invaluable document to the flame. Unless we take care, it will be our liberties and those of our children and grandchildren that will finally go up in the thick black smoke of puny political ambition.

Edmund Burke once observed that, “abstract liberty, like other mere abstractions, is not to be found.”

If we, who are entrusted with the safeguarding of the people's liberties—and that is what is involved here—are careless or callous or complacent, then those hard-won, cherished freedoms can run through our fingers like so many grains of sand. Let us all endeavor to take more to heart the awesome responsibility which service in this body conveys, and remember always that what has been won with such difficulty for us by those who sacrificed so much for our gain can be quickly

and effortlessly squandered by less worthy keepers of that trust.

Mr. President, let me read just a few brief extracts from the majority opinion. And that opinion was written by Mr. Justice Stevens.

There is no provision in the Constitution that authorizes the President to enact, to amend, or to repeal statutes.

That is elemental. I am editorializing now—that is elemental.

Continuing with the opinion written by Mr. Justice Stevens, and concurred in by the Chief Justice and four other justices:

What has emerged in these cases from the President's exercise of his statutory cancellation powers, however, are truncated versions of two bills that passed both Houses of Congress. They are not the product of the “finely wrought” procedure that the Framers designed.

* * * * *

If the Line-Item Veto Act were valid, it would authorize the President to create a different law—one whose text was not voted on by either House of Congress or presented to the President for signature. Something that might be known as “Public Law 105-33 as modified by the President” may or may not be desirable, but it is surely not a document that may “become a law” pursuant to the procedures designed by the Framers of Article I, [section] 7, of the Constitution.

If there is to be a new procedure in which the President will play a different role in determining the final text of what may “become a law,” such change must come not by legislation but through the amendment procedures set forth in Article V of the Constitution.

I close my reading of the excerpts from Mr. Justice Stevens' majority opinion. Let me read now, briefly, certain extracts from the concurring opinion by Mr. Justice Kennedy. He says this:

I write to respond to my colleague JUSTICE BREYER, who observes that the statute does not threaten the liberties of individual citizens, a point on which I disagree. . . . The argument is related to his earlier suggestion that our role is lessened here because the two political branches are adjusting their own powers between themselves. . . . The Constitution's structure requires a stability which transcends the convenience of the moment. . . . Liberty is always at stake when one or more of the branches seek to transgress the separation of powers.

Separation of powers was designed to implement a fundamental insight: concentration of power in the hands of a single branch is a threat to liberty.

The Federalist states the maxim in these explicit terms:

The accumulation of all powers, legislative, executive and, judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny.

Others of my colleagues may wish to quote further.

So what is involved here—what the Court's opinion is really saying—what is involved when we tamper with checks and balances and the separation of powers, that structure in the Constitution? What is really involved are the liberties of the people.

Blackstone says it very well in chapter 2 of book 1. Chapter 2 is titled “Of the Parliament.”